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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,486	07/02/2003	Robert Bender	RBI-021CP	3504

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EXAMINER	
KANERVO, VIRPI H	
ART UNIT	**PAPER NUMBER**
3691	

MAIL DATE	DELIVERY MODE
12/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/612,486	BENDER, ROBERT	
	Examiner	Art Unit	
	Virpi H. Kanervo	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-6 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *See Continuation Sheet*.

DETAILED ACTION

Priority

1. The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original non-provisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. § 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

   The disclosure of the prior-filed application, Application No. 60/393,222, filed 07/02/2002, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. § 112 for claims 1-6 of this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 4, and 6, are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a limitation "convertible debt or another instrument." It is not clear what the "convertible debt or another instrument" is. Examiner will consider the limitation to read any financial instrument for the purpose of the further examination of the application.

Claim 4 recites a limitation "management or relevant technical expertise." It is not clear what the "relevant technical expertise" is. Examiner will consider the limitation to read "management or technical expertise" without "relevant" for the purpose of the further examination of the application.

Claim 6 recites a limitation "Principal of said fund." It is not clear who or what the "Principal of said fund" is. Examiner will consider the limitation to mean a manager of the fund for the purpose of the further examination of the application.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in § 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-2 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence (2003/0236742 A1) in view of Levy (*"Securities Investment Partnership"* by Gregory M. Levy and Joseph V. Del Raso; The CPA Journal, September 1993).

As to claim 1, Lawrence shows a managed fund (Lawrence: page 3, ¶ 34; where a managed fund is a hedge fund), that General Partner has an investment in said managed fund (Lawrence: page 3, ¶ 34; where a general partner is both an investor and a fund manager); and that

investment of said managed fund is via any financial instrument (Lawrence: page 4, ¶ 48; where financial instruments are portfolio securities). Lawrence does not show that said fund does not pay fees to a General Partner. Levy shows that said fund does not pay fees to a General Partner (Levy: page 32; where fund manager is compensated with a performance allocation based on appropriation of net assets, which is compensation other than fees). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Lawrence by fund not paying fees to a General Partner of Levy in order to provide different typical compensation arrangement (Levy: page 32).

As to claim 2, Lawrence in view of Levy shows all the elements of claim 1. Lawrence also shows that said General Partner is compensated on the same basis as Founders and Management (Lawrence: page 3, ¶ 34; where a general partner is a manager and a sponsor, and thus he is compensated on the same basis as manager and a sponsor).

As to claim 4, Lawrence in view of Levy shows all the elements of claim 1. Lawrence also shows that said General Partner further comprises management or technical expertise (Lawrence: page 3, ¶ 34; where a general partner manages the fund).

6. Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence in view of Levy, and further in view of Weiss (2002/0035520 A1).

As to claim 3, Lawrence in view of Levy shows all the elements of claim 1. Lawrence in view of Levy does not show that said convertible debt is valued by third party investors. Weiss shows that said convertible debt is valued by third party investors (Weiss: pages 10-11, ¶ 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Lawrence in view of Levy by said convertible debt being valued by third party investors of Weiss in order to provide analytical tools that may assist investors in using and interpreting available data (Weiss: page 1, ¶ 21).

7. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence in view of Levy, further in view of Bettis (7,016,872 B1).

As to claim 5, Lawrence in view of Levy shows all the elements of claim 1. Lawrence in view of Levy does not show that said General Partner owns 5-10% of said company. Bettis shows that said General Partner owns 5-10% of said company (Bettis: col. 1, lines 25-26; where general partner, as a manager, is company officer). It would have been obvious to one of

ordinary skill in the art at the time of the invention to have modified the system of Lawrence in view of Levy, by the General Partner owning 5-10% of the company in order to not to be considered company insider (Bettis: col. 1, lines 25-26).

8. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence in view of Baker (7,003,470 B1).

As to claim 6, Lawrence shows allowing a Principal of said fund to develop and manage a company (Lawrence: page 3, ¶ 34), and that said Principal has common equity in said company (Lawrence: page 3, ¶ 34; where a manager is an investor). Lawrence does not show funding a company from an investment fund. Baker shows funding a company from an investment fund (Baker: col. 9, lines 37-39). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Lawrence by funding a company from an investment fund of Baker in order to provide process that enable the participants to identify the real costs and funding (Baker: col. 2, lines 4-11).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Andrus (2002/0156709 A1) discloses debt financing method for companies

Burczyk (2004/0267661 A1) discloses a method and system that allows outside investors to serve as originators of credit funds to credit users.

Dokken (2004/0054613 A1) discloses a system and method for depositing and investing illiquid or restricted assets indirectly or directly into an investment fund.

Fisher (2004/0153388 A1) discloses an investment fund management strategy and system.

Wallman (2003/0120574 A1) discloses a method for creating an electronic marketplace of investment advice for consumers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virpi H. Kanervo whose telephone number is (571) 272-9818. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Virpi H. Kanervo

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER

Continuation of Attachment(s) 6). Other: "Securities Investment Partnership" by Gregory M. Levy and Joseph V. Del Raso; The CPA Journal, September 1993.